

REMARKS

Reconsideration and withdrawal of the rejection and the allowance of all claims now pending in the above-identified patent application (i.e., Claims 25-31) are respectfully requested in view of the foregoing amendments and the following remarks.

At the outset, it should be recalled that the present invention provides a method for cosmetically increasing the size of the human breast, which includes the steps of applying cocoa butter to a human breast for a larger breast size of the human breast, as compared to the original breast size, and applying Vitamin E to the human breast of increased size for sustaining the larger breast size. The step of applying cocoa butter to the human breast may be carried out prior to the application of Vitamin E to the breast for sustaining breast size or the steps of applying cocoa butter and Vitamin E may be performed simultaneously.

As will be explained in greater detail hereinafter, nowhere in the prior art is such a novel and economical method for increasing the size of the human breast either disclosed or suggested.

The present Response is being filed by the undersigned patent attorney at the request of Applicant. At this time, the Patent and Trademark Office should continue to correspond

with the inventor until such time as a formal power-of-attorney is provided to the undersigned. The Examiner, however, may of course choose to confer by telephone with the undersigned regarding this application and, most particularly, the amendments and argument presented herein.

By the present amendments, Applicant has cancelled Claims 16-24 and has entered new Claims 25-31, of which Claim 25 is now the single independent method claim pending in the application. The newly presented claims are limited to a method for enlarging breast size. The Examiner had rejected prior Claims 16-24 as being indefinite, pursuant to 35 U.S.C. §112, second paragraph, on the ground that to "augment" breast size could also be viewed as reducing, in addition to increasing, the size of the breast. Because it is Applicant's intent to provide a method for enlarging the breast, Claims 25-31 have been clarified, as suggested by the Examiner.

Accordingly, withdrawal of the Examiner's 35 U.S.C. §112, second paragraph, indefiniteness rejection of the third Office Action is respectfully requested.

New Claims 25-31 have been drafted in conformance with U.S. claim practice; the prior claims presented by Applicant followed European/German claim practice. Claims reciting purely "use" recitations have been deleted from the application, such claims not constituting statutory subject matter under U.S. patent law. In addition, the use of multiple

dependent claims has been avoided.

Consequently, the objections to, and rejections of, Claims 16-24, under 35 U.S.C. §112, second paragraph, and 37 C.F.R. §1.75(c), are submitted to be overcome (or otherwise rendered moot) by the newly-entered claims.

As part of the third Office Action, the Examiner has requested that Applicant supply copies of the references cited in her corresponding British and European patent applications. Accordingly, an Information Disclosure Statement has been prepared and accompanies this Amendment, which supplies Applicant's U.K. Patent Office and European Patent Office Search Reports, as well as eight of the eleven references cited by either the U.K. Patent Office or the EPO. The undersigned will arrange with Applicant to obtain and forward the remaining references (which are not presently available to the undersigned) to the Examiner as soon as possible.

Applicant and her attorney thank the Examiner for waiving the fee and certification requirements of 37 C.F.R. §1.97 for the Information Disclosure Statement being submitted at this time.

As part of the third Office Action, the Examiner has again rejected Applicant's claims, pursuant to 35 U.S.C. §101 and 35 U.S.C. §112, first paragraph, as being both lacking in utility and non-enabling on the contention that the claimed

invention is not supported by either credible asserted utility or a well-established utility and those skilled in the art would not know how to practice the method in order to achieve the claimed result.

Applicant is, and has been, in the process of obtaining evidence/test results that would address, and support, the utility of her claimed method, and is seeking to provide the Examiner with such evidence of utility as soon as possible.

As requested by the Examiner, it would appear that the website for "African Medicines Formulary; Vitamins" is actually the "South African Medicines Formulary," which is an extensive website evidently maintained by the South African Government and which addresses numerous health-related concerns.

Turning now, in detail, to the prior art rejection of Applicant's claims, in the third Office Action the Examiner rejected prior Claims 16-21 (now Claims 25-31) as being obvious, pursuant to 35 U.S.C. §103(a), over Cayce on the contention that the applied reference discloses a method of treating a breast with cocoa butter, but does not disclose the use of Vitamin E. According to the Examiner, Vitamin E is commonly used to treat the skin, including the breast. Consequently, the Examiner has argued that it would have been obvious to have used Vitamin E and cocoa butter, as taught by Cayce, to treat the breast inasmuch as both are well known

for treating dry skin, including treatment of the nipple and breast when nursing.

In reply to the Examiner's obviousness rejection applying Cayce, this publication, at p. 285, states that:

"This is a little bit late in the beginning [the woman was aged thirty-two] but if there is the massage of the mammary glands with cocoa butter - *not on the breast itself*, but under the arm and lower and in the area between the breast - you can get 'em as big or as little as you wish."

Emphasis added.

The foregoing passage from Cayce (apparently in "British English") teaches that cocoa butter might be used to increase or decrease the size of the human breast, however, the cocoa butter is "not [applied] on the breast itself." Applicant's claimed method includes the step of applying cocoa butter to the human breast and, as such, Cayce must be seen as teaching against the method being claimed by the instant Applicant.

Stated differently, the skilled artisan studying Cayce would not practice the step of:

"applying cocoa butter to a human breast for a larger breast size of the human breast as compared to breast size prior to said step of applying cocoa butter,"

as recited by Applicant in new independent Claim 25.

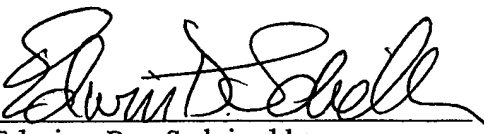
Because Applicant's claimed method performs a step that the prior art of Cayce expressly teaches against, it is submitted that Cayce cannot reasonably be seen as rendering obvious the presently claimed invention. Hence, Applicant

respectfully requests that the Examiner's 35 U.S.C. §103(a) obviousness rejection of the third Office Action be withdrawn.

In view of the foregoing, it is respectfully contended that all claims now pending in the above-identified patent application (i.e., Claims 25-31) recite a novel method for enlarging the human breast, and sustaining the increased breast size, which is patentably distinguishable over the prior art. Accordingly, withdrawal of the outstanding rejections and the allowance of all claims now pending in the instant patent application (subject to providing the Examiner with evidence of utility) are respectfully requested and earnestly solicited.

Respectfully submitted,

MARIANTHI GIAKOUMAKIS

By 
Edwin D. Schindler
Attorney for Applicant
Reg. No. 31,459

Five Hirsch Avenue
P. O. Box 966
Coram, New York 11727-0966
(631)474-5373

February 2, 2005

Enc.: 1. Petition for Three-Month Extension of Time;
2. Applicant's Check for \$510.00 (Extension Fee); and,
3. Information Disclosure Statement w/Form PTO-1449
and eight (8) references.

The Commissioner is hereby authorized to charge the Deposit Account of Applicants' Attorney, Account No. 19-0450, for any additional fees which may be due in connection with the prosecution of the present application, but which have not otherwise been provided for.